

Assembly Bill No. 2717

CHAPTER 325

An act to amend Sections 17171, 17173, 17180, 17183, 17183.5, 17184, 17185, 17193, 17193.5, 17194, 17195, 17199.1, and 17199.4 of the Education Code, relating to charter schools.

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Secretary of State September 18, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2717, Walters. Charter school finance.

The California School Finance Authority Act establishes the California School Finance Authority for the purpose of assisting school districts and community college districts by providing financing for working capital, as defined, and capital improvements.

This bill would, in addition, provide that charter schools are eligible for assistance under the act, and would revise various definitions and procedures contained in the act accordingly.

The people of the State of California do enact as follows:

SECTION 1. Section 17171 of the Education Code is amended to read:

17171. The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings that are educationally inadequate or that do not meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts, charter schools, and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

SEC. 2. Section 17173 of the Education Code is amended to read:

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Agent" means a county or city board of education or superintendent of schools acting with the board's consent, on behalf of one or more school districts for any purpose of this chapter, the Board of

Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with the Board of Governors' consent, on behalf of one or more community college districts for any purpose of this chapter, and the school district, county office of education, or other chartering entity acting with the consent of, and on behalf of, one or more charter schools for any purpose of this chapter.

(c) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) "Bonds" or "revenue bonds" means bonds, notes, lease obligations, certificates of participation, commercial paper, and any other evidences of indebtedness.

(e) "Cost," as applied to all or part of a project financed or refinanced pursuant to this chapter, means and includes all or any part of the cost of any of the following:

- (1) Construction.
- (2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.
- (3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.
- (4) All machinery and equipment.
- (5) Financing or refinancing charges, including, but not limited to, credit enhancement costs, and prepayment penalties.
- (6) Interest prior to, during, and for a period following, the completion of any construction or improvement determined by the authority.
- (7) Provisions for working capital.
- (8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.
- (9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing or refinancing under this chapter.

(f) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools, including charter schools, or community colleges, including, but not limited to, all of the following:

- (1) Classrooms.
- (2) Auditoriums.
- (3) Student centers.
- (4) Administrative offices.
- (5) Sports facilities.
- (6) Maintenance, storage, or utility facilities.

(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(g) “Participating party” means a school district, charter school, county office of education, or community college district that undertakes, itself or through an agent, the financing or refinancing of a project or of working capital pursuant to this chapter. “Participating party” shall also be deemed to refer to the agent to the extent the agent is acting on behalf of the school district, charter school, county office of education, or community college district for any purpose of this chapter.

(h) “Project” means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. “Project” may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating parties.

(i) “Working capital” means funds to be used by, or on behalf of, a participating party to pay maintenance or operating expenses, or any other costs that would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

- (1) Reserves for maintenance or operating expenses.
- (2) Interest for a period not to exceed two years on any loan for working capital made pursuant to this chapter.
- (3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.
- (4) Payments made by a participating party for the rent or lease of an educational facility.

(j) “Certificate of participation” means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating party or parties.

(k) “Charter school” means a school established pursuant to Part 26.8 (commencing with Section 47600).

SEC. 3. Section 17180 of the Education Code is amended to read:

17180. The authority is hereby authorized to do all of the following:

- (a) Adopt bylaws for the regulation of its affairs and the conduct of its business.
- (b) Adopt an official seal.
- (c) Sue and be sued in its own name.
- (d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:
 - (1) A federal agency.
 - (2) A state agency.
 - (3) A municipality, county, or other political subdivision of the state.
 - (4) An individual, association, or corporation.
- (e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed or refinanced under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating party as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating party as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state that the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating party as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating party, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, or purchase all or part of any rights to or possibilities regarding the state share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Section 17070.10). The purchase of all or part of any rights to, or possibilities regarding, the state contribution for funding for school facilities approved by the State Allocation Board shall be limited to amounts approved and funded or amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued. Loans or purchases completed pursuant to this section may be used to finance or refinance a project or provide working capital. A loan to finance or refinance a project shall not exceed the total cost of the project, as determined by the participating party and approved by the authority.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed or refinanced pursuant to this chapter to a participating party, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating party of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the participating party's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating parties its administrative costs and expenses incurred pursuant to this chapter.

(l) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating party.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

(o) Adopt guidelines for grants, bonds, and other evidences of indebtedness.

SEC. 4. Section 17183 of the Education Code is amended to read:

17183. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating party.

(2) A series of projects or financings of working capital for a single participating party.

(3) A single project or financing of working capital for several participating parties.

(4) Several projects or financing of working capital for several participating parties.

(5) A joint venture school facilities construction project undertaken pursuant to Article 5 (commencing with Section 17060) of Chapter 12.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

- (1) The date or dates of the bonds.
- (2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.
- (3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.
- (4) When the bonds are payable.
- (5) The denominations of the bonds.
- (6) The form of the bonds, which shall be either bearer or registered.
- (7) The registration privileges of the bonds.
- (8) The manner in which the bonds are to be executed.
- (9) The place or places at which the bonds shall be payable in lawful money of the United States of America.
- (10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating party or parties, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds that shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

- (1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.
- (2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.
- (3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing that statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

(j) The financing or refinancing of projects or working capital may be provided pursuant to this chapter by means other than revenue bonds, at the discretion of the authority, including financing or refinancing through certificates of participation, or other interests, in bonds, loans, leases, installment sales, or other agreements of the participating party or parties. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable with regard to issuance of the certificates of participation or other means of financing or refinancing.

(k) The authority may by resolution issue its revenue bonds in the form of commercial paper.

SEC. 5. Section 17183.5 of the Education Code is amended to read:

17183.5. In enacting this chapter, it is the intent of the Legislature to provide financing only for projects demonstrated by the participating party to be financially feasible. In demonstrating financial feasibility, the participating party may take into account all of its funds, and may base future projections upon historical experience or reasonable expectations, or a combination thereof. Nothing in this section shall be construed to imply that any project is required to produce revenue in order to be financed under this chapter.

SEC. 6. Section 17184 of the Education Code is amended to read:

17184. (a) In the discretion of the authority, any revenue bonds of the authority issued under this chapter may be secured by a trust agreement, or by indenture by and between the authority and a corporate trustee or trustees, including the Treasurer or any trust company or bank having the powers of a trust company within or outside the state.

(b) Any trust agreement, indenture, or any resolution providing for the issuance of bonds of the authority, may pledge or assign the proceeds of the bonds, and the revenues to be received by, a participating party or parties.

(c) Any trust agreement, indenture, or resolution providing for the issuance of revenue bonds of the authority may include any provisions for the protection of, and the enforcement of the rights and remedies of, bondholders as may be reasonable and proper and not in violation of any law, including provisions included in any resolution or resolutions of the authority provided under subdivision (a) or (b).

(d) Any trust agreement or indenture may prescribe the rights and remedies of the bondholders, and of the trustee or trustees, and may restrict the individual right of action of the bondholders.

(e) Any trust agreement, indenture, or resolution may include any other provisions deemed by the authority to be reasonable and proper for the security of the bondholders.

(f) Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of his or her capacity as trustee pursuant to this chapter.

SEC. 7. Section 17185 of the Education Code is amended to read:

17185. (a) Notwithstanding any other provision of law, revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political

subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

SEC. 8. Section 17193 of the Education Code is amended to read:

17193. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating party, and each agreement, note, or other instrument evidencing the obligations of a participating party to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating party shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves that may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating party for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds that may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating party may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

SEC. 9. Section 17193.5 of the Education Code is amended to read:

17193.5. (a) For purposes of this section, “public credit provider” means any financial institution or combination of financial institutions, that consists either solely, or has as a member or participant, a public retirement system. Notwithstanding any other provision of law, a public credit provider may, in connection with providing credit enhancement for bonds, notes, certificates of participation, or other evidences of indebtedness of a participating party, require the participating party to agree to the following conditions:

(1) If a participating party adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the

repayment of principal and interest on the bonds, notes, certificates of participation, or other evidence of indebtedness and identify the public credit provider that provided credit enhancement. The notice shall be provided not later than the date of issuance of the bonds.

(2) If, for any reason a public credit provider is required to make principal or interest payments or both pursuant to a credit enhancement agreement, the public credit provider shall immediately notify the Controller of that fact and of the amount paid out by the public credit provider.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the public credit provider in the amount of the payments made by the public credit provider for the purpose of reimbursing the public credit provider for its expenditures made pursuant to the credit enhancement agreement. The Controller shall make that apportionment only from moneys designated for apportionments to a school district pursuant to Section 42238 or to a county office of education pursuant to Section 2558 or to the community college district pursuant to Section 84750, or in the case of a charter school, pursuant to Section 47633.

(b) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) or Section 8 of Article XVI of the California Constitution. For purposes of computing revenue limits or revenue levels pursuant to Section 42338 for any school district or pursuant to Section 2558 for any county office of education or pursuant to Section 84750 for any community college district, the revenue limit or revenue level for any fiscal year in which funds are apportioned for the district or for the county office of education pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraph (3) of subdivision (a). For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraph (3) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) of subdivision (a).

SEC. 10. Section 17194 of the Education Code is amended to read:

17194. The authority may authorize any participating party to act as its agent in the performance of acts specifically approved by the authority, and all acts required under Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. The authorizations may include, but are not necessarily limited to, all of the following:

- (a) The selection of school or college sites.
- (b) The securing of appraisals.
- (c) Contracts for architectural services.
- (d) The advertisement for construction bids and the entry into contracts for construction.
- (e) The purchase of furniture and equipment.

SEC. 11. Section 17195 of the Education Code is amended to read:

17195. Whenever the principal and interest on bonds issued by the authority to finance the cost of a project or working capital, or to refinance the outstanding indebtedness of one or more participating parties, including any refunding bonds issued to refund and refinance those bonds, have been fully paid or retired, or whenever adequate provision has been made to fully pay and retire the bonds, and all other conditions of the resolution, lease, trust indenture and any security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of security interest has been released in accordance with those provisions, the authority shall promptly provide for and execute any releases, release deeds, reassignments, deeds, and conveyances as are necessary and required to convey or release its rights, title, and interest in the project financed, to the participating parties.

SEC. 12. Section 17199.1 of the Education Code is amended to read:

17199.1. (a) Any participating party, exclusively for the purpose of securing financing or refinancing of projects or working capital pursuant to this chapter through the issuance, by the authority, of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, may: (1) sell to the authority all or part of any rights to or possibilities regarding the state's share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Sec. 17070.10) including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued; (2) issue bonds to the authority; or (3) borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, in each case at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other transfer, assignment, payment, security, default, remedy, and other terms or provisions as may be specified in the sale of rights agreement or the bonds of the participating party or a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating party, subject to the following conditions:

(A) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other funds received by the participating party, which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the participating party.

(B) In computing the maximum amount that may be borrowed in any fiscal year pursuant to subparagraph (A), the participating party may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the participating party which has a term scheduled to terminate during that fiscal year.

(C) A participating party that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan, including interest, within 15 months of the loan date.

(D) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cashflow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating party must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating party will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating party may take into account all funds received by the participating party and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Notwithstanding Sections 700, 703, and 1045 of the Civil Code, the rights and possibilities that a participating party may have or obtain in the future to an approved state contribution to funding for school facilities pursuant to Chapter 12.5 (commencing with Sec. 17070.10) that remains unfunded pending the issuance of state bonds already authorized by the electors shall constitute property for all purposes and may be transferred as provided in subdivision (a). In the case of any transfer or assignment of rights or possibilities relating to funds for which bonds have been approved by the voters but are not yet available, the transfer or assignment shall be approved by resolution of the State Allocation Board prior to becoming effective.

(c) Any participating party may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the issuance of bonds, the borrowing of money or the lease or purchase of educational facilities, whichever is applicable. Any participating party or parties may also do all things and execute all documents as may be necessary or desirable in connection with the issuance of certificates of participation, or other interests, in any bond, loan, note, installment sale, lease, or other agreement of the participating party.

(d) A school district may by resolution authorize any county or city board of education or superintendent of schools, a community college district may by resolution authorize the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges, and a charter school may by resolution authorize its chartering entity or educational management organization, to act as its agent in the performance of any of the matters permitted by this section or any other provision of this chapter. Notwithstanding any other provision of law, the agent shall have the powers granted by the resolution for purposes of this chapter. The resolution shall be deemed to bind the school district, charter school, or community college district, as the case may be, to any contract, agreement, instrument, or other document executed by the agent

on behalf of the school district, charter school, or community college district, and all duties, obligations, or responsibilities contained therein on the part of the school district, charter school, or community college district, to the same extent as if duly authorized, executed, and delivered by the school district, charter school, or community college district.

(e) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the sale or transfer of any rights to or possibilities regarding the state share of funding for school facilities approved by the State Allocation Board including amounts apportioned and funded and amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued, issuance of bonds to, borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the transfer of any rights to or possibilities regarding the state contribution for funding for school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10), including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued, or the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district, charter school, or community college district, or by a county or city board of education or superintendent of schools, or the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges, or the governing board of a charter school, chartering entity, or educational management organization.

SEC. 13. Section 17199.4 of the Education Code is amended to read:

17199.4. (a) Notwithstanding any other law, any participating party, in connection with securing financing or refinancing of projects, or working capital pursuant to this chapter, may elect to guarantee or provide for payment of the bonds in accordance with the following conditions:

(1) If a participating party adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds, and any other costs necessary or incidental to financing pursuant to this chapter, and identify a trustee appointed by the participating party or the authority for purposes of this section. The notice shall be provided not later than the date of issuance of the bonds or 60 days prior to the next payment, whichever date is later. The participating party shall update the notice at least annually if there is a change in the required payment for any reason, including, but not limited to, providing for new or increased costs necessary or incidental to the financing.

(2) If, for any reason, the participating party will not make a payment at the time the payment is required, the participating party shall notify the trustee of that fact and of the amount of the deficiency. If the trustee receives this notice from the participating party, or does not receive any payment by the date that payment becomes due, the trustee shall immediately communicate that information to the Controller.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee on the date shown in the schedule in the amount of the deficiency for the purpose of making the required payment. The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment to a school district pursuant to Section 42238 or to the county office of education pursuant to Section 2558, or in the case of a charter school, pursuant to Section 47633.

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating party may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date for the transfers. The Controller shall, subject to the limitation in paragraph (3), make apportionments to the trustee of those amounts on the specified date for the purpose of making those transfers. The authority may require a participating party to proceed under this subdivision.

(b) (1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) For purposes of computing revenue limits pursuant to Section 42238 for any school district or pursuant to Section 2558 for any county office of education, the revenue limit for any fiscal year in which funds are apportioned for the participating party pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a).

(3) For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) and (4) of subdivision (a), or to the funds apportioned to by the Controller to the trustee under any other provision of this section.

(c) (1) Participating parties that elect to participate under this section shall apply to the authority. The authority shall consider each of the following priorities in making funds available:

(A) First priority shall be given to school districts, charter schools, or county offices of education that apply for funding for instructional classroom space.

(B) Second priority shall be given to school districts, charter schools, or county offices of education that apply for funding of modernization of instructional classroom space.

(C) Third priority shall be given to all other eligible costs, as defined in Section 17173.

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for the purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17060) of Chapter 12, shall not be subject to the priorities set forth in paragraph (1).

(d) This section shall not be construed to make the State of California liable for any payments within the meaning of Section 1 of Article XVI of the California Constitution or otherwise, except as expressly provided in this section.

(e) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.